

III. REMARKS

In the Office Action claims 27-38, 40-51 and 53-54 were rejected under 35 U.S.C. 103 as being unpatentable over Miyasaka (US 5,991,503) for reasons set forth in the Action. Claims 27-37 were rejected under 35 U.S.C. 112, first paragraph, because claim 27 has the format of an apparatus claim with a single means being recited. Claims 39 and 52 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for reasons set forth in the Action.

In order to overcome the foregoing grounds of rejection, various ones of the rejected claims have been amended, with some of the claims being cancelled because their subject matter appears substantially in the amended claims. The amended claims contain numerous limitations that provide for further distinctions between the present claims and the teachings of Miyasaka so as to overcome the rejections under 35 U.S.C. 103. New claims are presented for further definition of the invention.

The significance of the amendments to the claims may be demonstrated by the following discussion of the amendments to claim 27.

Claim 27, as amended, contains the feature that each of the primary and secondary data units has a scheduled playback time at the client, and that there is increased likelihood of receipt of the primary data units at the client in time to be played back at their scheduled playback times. The scheduled playback time is the time that primary data units are to be played back at the client.

In Miyasaka, assuming that the I, P, and B pictures have scheduled playback times (this is an assumption presented purely for the sake of argument and the applicant would be inclined to argue separately that there are further differences), it is clear that in using the fast forward operation, the I pictures will be played at times which are different from their scheduled playback times. (It is necessarily the case that in fast forward mode, I pictures are played at times which are different to playback in normal mode.) In other words, in Miyasaka, the scheduled playback time is not the time that I pictures are to be played back at the client.

In claim 27 and more specifically in claim 38, re-ordering is carried out in a way that provides for pause-less playback of the data signal at the client. Re-ordering of packets in Miyasaka is carried out for a different reason, not discussed in Miyasaka.

Claim 27 contains a further feature wherein the secondary units are received at the client in time to be played back at their scheduled playback times, thereby improving the quality of the data signal played back at the client. To the contrary, in Miyasaka, when operating in fast forward mode, the Miyasaka system is specifically configured so that P and B pictures are not played.

Claim 27 also calls for exchanging a secondary data unit, that precedes a primary data unit in the original data unit order, with the primary data unit so as to produce a re-ordered data signal with a modified data unit order in which the primary data unit precedes the secondary data unit in the sequence of data units.

The foregoing aspect of the invention is distinguishable from Miyasaka wherein there is no such exchange or re-ordered signal having "a modified data unit order in which the primary data unit precedes the secondary data unit in the sequence of data units" because the data that provides P and B pictures is not sent. Part of this data might be sent but not necessarily enough data to enable playback.

The present invention is concerned with generating a signal which has the characteristic that primary units can be played back at their scheduled playback times. Miyasaka is concerned with playing back I pictures at times other than at scheduled playback times.

Claim 27 also calls for increasing the likelihood that the primary data unit will be received at the client in time to be played back at its scheduled playback time, and decreasing the likelihood that the secondary data unit will be received at the client in time to be played back at its scheduled playback time.

By way of contrast, in Miyasaka there is no issue of "likelihood" because the I pictures are received when they are received and then played (this is because they do not have "scheduled playback times" in a sense which corresponds to the scheduled playback times which would have applied in normal playback). Furthermore, the P and B pictures are not received, whether before or after a scheduled playback time, because they are not played back.

The foregoing discussion applies also to other ones of the independent claims. For example, in present claim 38, there are recitals of the previously described aspects of the invention, namely: a sequence of data units including primary data units and

secondary data units, wherein each of the primary and the secondary data units has a scheduled playback time at the client; the playback at scheduled playback times providing pause-less playback; re-ordering means for changing the order of the primary and secondary data units; and also the features of increasing the likelihood that the primary data unit will be received at the client in time to be played back at its scheduled playback time, along with a decreasing of the likelihood that the secondary data unit will be received at the client in time to be played back at its scheduled playback time.

In view of the foregoing analysis of the present claims, this analysis applying both to the amended claims as well as to the new claims, it is urged that there are sufficient features in the present claims to distinguish these claims from the teachings of the cited art, thereby to overcome the rejections under 35 U.S.C. 103 and to obtain allowable subject matter.

In the matter of the rejection of Claims 27-37 under 35 U.S.C. 112, first paragraph, claim 27 is amended to recite that the server has means for transmitting a data signal. By this amendment, claim 27 has the format of an apparatus claim with a plurality of means being recited, so as to overcome the grounds of the rejection.

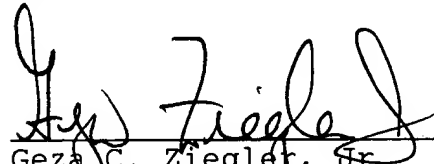
In the matter of the rejection of claims 39 and 52 under 35 U.S.C. 112, second paragraph, as being indefinite, it is noted that both of these claims have been cancelled.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and

are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Enclosed please find a check in the amount of \$4,160.00 for a 3 month extension of time, additional claim fees and an RCE. The additional claim fees are calculated as follows: 8 independent claims pending (6 previously paid for), and 67 total claims (28 previously paid for). The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


Geza C. Ziegler, Sr.
Reg. No. 44,004

28 March 2005
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

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